Proposed Revision of The Wildlife Act

Discussion Paper: November 1983

Alberta

ENERGY AND
NATURAL RESOURCES
Fish and Wildlife Division

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Introduction

The current Wildlife Act has evolved over many years and contains several principles that have stood the test of time. There are, however, certain aspects of the current Wildlife Act that reflect both a format and philosophy that are not of a progressive and contemporary nature.

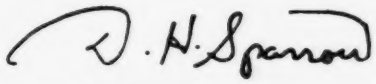
The adoption of the *Fish and Wildlife Policy for Alberta* in October of 1982 clearly dictated the need to seek major revision to the current act in order to make possible the implementation of the approved policy. This requirement was seen as an opportunity to bring about a total review of the current legislation, with a view to developing a new Wildlife Act that will provide authority to carry out innovative and contemporary wildlife management programs in a format clearly understandable and sensitive to the long-term interests of our wildlife resource and the citizens who benefit from its protection and wise use.

This discussion paper has been prepared for circulation among interest groups in order to receive comments on the proposed rewrite of the Wildlife Act. Comments and suggestions received will assist the government in determining the appropriateness of the proposed legislation.

Comments need not be limited to the subject areas identified in this paper. Should you have additional concerns or comments, please feel free to identify them as well.

Your written comments should be directed to Mr. Dennis Surrendi, Assistant Deputy Minister, Fish and Wildlife Division, Alberta Energy and Natural Resources, Main Floor, North Tower, Petroleum Plaza, 9945 - 108 Street, Edmonton, Alberta, T5K 2C9 and must be received before the end of January, 1984.

I encourage individuals and organizations to take this opportunity to contribute to the development of this important legislation.



Don Sparrow
Associate Minister
Public Lands and Wildlife

a) The current definition of wildlife includes every vertebrate animal in the world except fish and a few specified domestic animals. Although provision exists to declare animals not to be wildlife by regulation, no such regulation exists at the time of this writing.

b) Present thinking within the Fish and Wildlife Division suggests that most vertebrates indigenous to Alberta must be considered wildlife. Additionally, exotic vertebrates which may survive in a wild state or otherwise have impact on indigenous wildlife must also be regulated. Finally, it seems the public does not find acceptable the keeping of all kinds of exotic animals as pets. Notably, lions, tigers, boa constrictors, alligators, and some monkeys and apes are not welcome in most neighborhoods. While the keeping of such animals may not adversely affect indigenous wildlife, it seems most of society desires their prohibition except for use in research or for zoological gardens. If such is the case, perhaps the Wildlife Act is the proper statute to deal with the issue.

c) The Fish and Wildlife Division also recognizes that significant numbers of animals will have no impact on indigenous animals nor is their presence as pets objectionable to most Albertans. It is proposed that such animals be designated, in regulation, as either domestics or pets. The Wildlife Act would then take no interest in animals designated as domestics or pets save where domestic cats or dogs unduly harass wildlife.

   Thus, provided pet shops and keepers limit their stock to those animals specified as domestics and pets, the Fish and Wildlife Division would take no interest in their day-to-day activities.

d) It is proposed, for the new act, that virtually all indigenous animals and parts of these animals be classified as wildlife with provision for regulations to create various categories (for example, big game, game birds, endangered animals, non-game animals) for management purposes.

e) The remaining vertebrate animals would be classified as exotics. It would be expedient to include only live animals in this category. Such a decision, however, would mean that this act would have no application to parts of exotics and therefore no authority would exist to deal with any part of animals unlawfully taken outside this country. The risk here is that Alberta would become known nationally and internationally as a jurisdiction through which such unlawfully taken animals may be disposed without interference. This would place Alberta in an unfavorable position with other jurisdictions and it could prompt federal legislation to deal with Alberta's legitimate legislative responsibilities.

   To avoid such an eventuality, the definition must include the parts of exotics. We can, however, in regulation, divorce ourselves from unnecessary involvement with parts of game lawfully taken elsewhere and legally exported.

f) Focusing the application of the new act away from domestics and pets and on wildlife and exotics will facilitate consistent interpretation; complement the regulatory policy of the *Fish and Wildlife Policy for Alberta* by helping to meet these stated goals:

   i) To manage regulatory activities in a manner that is as sensitive as possible to the public which is being regulated,

   ii) To manage regulatory activities in as comprehensive a manner as possible;

   and should permit Fish and Wildlife Division staff to concentrate their efforts on matters which actually relate to Alberta's wildlife resource.

II Trust Funds

a) It is proposed to consolidate all the existing funding provisions currently found in sections 8, 9 and 10 of the act by providing for one trust fund which would be operated to finance several programs.

b) Programs to be included under this trust fund would be identified and approved by the lieutenant-governor-in-council through order-in-council. It is currently planned to finance the following five programs:

Wildlife Damage Compensation
Wildlife Depredation Control
Fish and Wildlife Habitat Development
Buck for Wildlife Projects
Humane Trapping (development/education).

The last program is the only new initiative.

c) The fund would be financed by donations and monies identified and committed by order-in-council.

III Captive Wildlife

a) Perhaps the most significant portions of the wildlife segment of the *Fish and Wildlife Policy for Alberta* are those relating to captive wildlife. A new philosophy is evident in the following policy statements:

> The Division will encourage an environment which fosters the development of a domestic wildlife farming industry on private lands and Metis settlements...
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> The Division will encourage an environment which fosters the development of a game ranching industry on private lands and Metis settlements...
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> The Division may allocate live wildlife for various uses such as game farming, game ranching, education or science, and zoological displays in conformity with other aspects of the Wildlife Policy.

Until now, big game farms have existed generally as private zoos and little provision has been made for legal traffic in the stock of such farms. Game bird farms, on the other hand, have existed to market game birds for food. Very little modification of the act will be required to implement the direction of the *Fish and Wildlife Policy for Alberta*. Legislative provision for such new programs will be found in regulations made under the new act. Consideration should be given to include fur farms in these regulations. We must, therefore, ensure that the necessary authorities exist to operate these programs.

b) Provisions authorizing and facilitating the operation of zoos are insufficient. Regulations on captive wildlife made under the new act must recognize and permit their operation.

IV Licensing Provisions

a) Licensing provisions are found both in the current act and in various regulations. It is proposed that provisions relative to eligibility be removed from the act. If placed in regulations, such provisions would be considerably more flexible. Eligibility could then be regulated specific to various types or classes of licences. Such a move would facilitate interpretation of licensing provisions since most provisions pertaining to a given licence could be housed in a single piece of legislation.

b) The wildlife policy of the *Fish and Wildlife Policy for Alberta* provides that certain licences should be transferable. For example, a registered trapper would be permitted, under certain conditions, to sell his trapping rights to a given area. To accomplish this, current provisions prohibiting transfer of licences must be modified. Other anticipated programs may also result in licence transfer (for example, outfitting).

c) Currently, the act provides that some licence applicants may be required by the minister to participate in training programs or to pass a test before being eligible for licences. It is further provided that conditions requiring the posting of bonds to ensure financial responsibility can be required. We propose to broaden these provisions so they may be applied to any or all licences as required. Such provisions make possible mandatory hunter training and guide exams. The provisions could be expanded to help ensure that only capable people become involved in trapping, game ranching or other activities governed by licences under the Wildlife Act. For example, it is proposed that all first-time hunters be required to pass a test before becoming eligible for a hunting licence. It is realized that this proposal will place a much higher demand on the Hunter Education Program but we propose to expand that program through increased volunteer instructor participation. Private organizations such as the Fish and Game Association are anxious to escalate their involvement. Currently, we require all convicted violators to take such a test.

a) There is a need to identify and regulate specific areas of the province according to the degrees of protection required and their planned wildlife management objectives.

The new legislation proposes that a sanctuary be considered an area warranting the maximum amount of legislative protection for wildlife management purposes. In this context hunting, trapping or, in some cases, habitat alteration would not be permitted either throughout the year or during specified time periods. Different categories of sanctuaries would be sought to deal with different situations. Sanctuaries could apply to public land and to private lands with the agreement of the landowner.

Under the proposed legislation, provincial parks and military lands would not be automatically designated as sanctuaries. Only where such areas require sanctuary status for purposes of wildlife management would they be established through regulations passed by lieutenant-governor-in-council.

b) Habitat management areas would identify lands set aside for wildlife management purposes but would allow for a variety of activities to occur provided such activities do not compromise the wildlife management objectives for the area. The approval of such areas would require regulations to be passed by the lieutenant-governor-in-council. Approval would require a zoning and management plan for the area along with a clear set of objectives which outline priorities for the land involved. Habitat management areas could encompass public lands and private lands with the agreement of the landowner.

c) The Fish and Wildlife Outdoor Recreation Policy provides:

> Facilities required to accommodate public use will not be developed by the Division except where such facilities cannot be accommodated by other agencies.

Land management provisions within the new act must, therefore, provide for the creation and management of such recreational facilities where other agencies cannot provide them. These facilities would only be developed to facilitate public use of habitat management areas with a minimum of negative effects.

a) Currently, both the act and its regulations contain many prohibitive sections. There is duplication and overlap which is confusing. The new act should contain most of the prohibitions, which would mean the regulations would be permissive. As an example, the act would provide:

> Subject to the regulations, a person shall not hunt wildlife without a licence.

The regulations would then provide that:

> A resident may, at all seasons and without a licence, hunt crows, magpies, starlings...

b) Currently, the act provides that ownership of wildlife is vested in the Crown and that no one gains any ownership except in accordance with the act or its regulations. No clear provisions transferring ownership exist in the current act or in regulations. It is necessary to make such a provision in the new act or provide the authority to regulate.

This is essential for the successful implementation of the game farming and ranching objectives of the *Fish and Wildlife Policy for Alberta*. Additionally, similar provisions are required to clarify commercial activities such as the wild fur industry.

c) The current act makes it an offence to hunt in a dangerous fashion and it prohibits hunting in a manner likely to cause damage to property. These provisions were added and were intended to curb unacceptable hunting practices dangerous to life or property. Unacceptable hunting practices continue. The existing act also prohibits hunting at night and hunting while intoxicated. It is proposed that these two prohibitions be removed and that hunting during the hours of darkness or while intoxicated be deemed hunting without due regard for the safety of other persons.

d) Present provisions prohibit hunting on occupied private land without permission. Should this prohibition be expanded to cover all privately-owned lands, the division could significantly increase service to landowners with respect to hunter-trespass problems. Currently, landowners must, on lands other than occupied lands, proceed against hunter-trespassers under the Petty Trespass Act. Such action usually puts the landowner and the violator in confrontation. In the new provision, officers would only react to trespass violations on complaint and landowners would no longer be required to risk confrontations in order to have violators prosecuted.

Leased public lands are entirely different. It is not intended that access issues relating to leased public lands be addressed through the Wildlife Act.

e) Restructured penalty provisions are being drafted to fit the new classification of wildlife as well as the level of seriousness of the violation. We are proposing that the minimum penalty be raised from $10 to $25 and, overall, penalties will be scaled more directly to the seriousness of the violation with the ceiling being removed for the most serious violations. For example, the taking of an upland bird during a closed season is less serious than taking a bird which is protected from hunting year-round.

Deliberate taking of endangered wildlife and violations committed for gain will be dealt with most severely.

Licence suspension provisions must be adjusted. A one-year suspension is now provided and, where applicable, it only relates to the specific type of licence (big game, game birds, etc.) required at the time of violation. We propose a range of suspensions from one to five years based on the seriousness of the violation. It is further suggested that the suspension imposed should apply to all licences to hunt and trap.

f) Provisions authorizing reward programs are proposed. The occasional offering of rewards for information leading to the apprehension of particular violators would increase the public's awareness of its responsibility to be self-policing. Voluntary self-supervision will continue to be encouraged by the division through efforts such as the existing Outdoor Observer Program.

These programs are designed to promote the Alberta hunter ethic as presented in the Wildlife Policy.

g) The act and regulations currently vest various administrative authorities in the minister and the assistant deputy minister (ADM). Provisions now exist for the minister to delegate his own administrative authorities and those vested in the ADM. It is proposed that all such authorities, for consistency, be vested in the minister and that he be authorized to delegate authority to administer the act and regulations.

h) It is proposed that much of the regulation making authority currently vested in the lieutenant-governor-in-council be transferred to the minister. This proposal would significantly reduce the demands for order-in-council and enhance ability to respond to wildlife management or public service situations in a timely manner.

VII Other Considerations

The intent of this discussion paper is to present information relating to the proposed changes to the Wildlife Act and to solicit comment on those matters. However, readers are invited to identify any other wildlife-related matters of interest to them which are not addressed in this paper and to provide comment on those issues as well.

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